

103^D CONGRESS
2^D SESSION

S. 2175

To urge the renegotiation of prisoner transfer treaties in order to relieve overcrowding in Federal and State prisons.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 7), 1994

Mr. LAUTENBERG (for himself, Mrs. FEINSTEIN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To urge the renegotiation of prisoner transfer treaties in order to relieve overcrowding in Federal and State prisons.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prisoner Transfer Eq-
5 uity Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to relieve overcrowding in
8 Federal and State prisons by providing for the transfer
9 of criminal aliens convicted of crimes in the United States

1 back to their native countries to serve the balance of their
2 sentences.

3 **SEC. 3. FINDINGS.**

4 The Congress makes the following findings:

5 (1) The cost of incarcerating an illegal alien in
6 a Federal or State prison can cost as much as
7 \$25,000 per year.

8 (2) There are approximately 58,000 convicted
9 criminal aliens serving in American prisons, includ-
10 ing 37,000 convicted criminal aliens serving in State
11 prisons and 21,000 convicted criminal aliens serving
12 in Federal prisons.

13 (3) Many of these convicted criminal aliens are
14 also illegal aliens, but the Immigration and Natu-
15 ralization Service does not have exact data on how
16 many.

17 (4) The combined cost to Federal and State
18 governments for the incarceration of convicted crimi-
19 nal aliens is approximately \$1,200,000,000, includ-
20 ing—

21 (A) for State governments, \$760,000,000;

22 and

23 (B) for the Federal Government,
24 \$440,000,000.

1 (4) There are approximately 2,500 American
2 citizens serving in prisons outside the United States.

3 (5) The United States has entered into over 25
4 prisoner exchange treaties. Since 1977, under these
5 treaties, the United States sent 1,200 prisoners to
6 other countries but has received 1,400 prisoners that
7 it had to imprison. This has added to United States
8 prison overcrowding.

9 **SEC. 4. PRISONER TRANSFER TREATIES.**

10 No later than 90 days after the date of enactment
11 of this Act, the President should begin to negotiate pris-
12 oner transfer treaties, or renegotiate existing prisoner
13 transfer treaties, with countries that currently have more
14 prisoners in United States prisons than there are United
15 States citizens in their prisons, to carry out the purpose
16 of this Act. The focus of these negotiations should be on
17 the transfer of illegal aliens who are serving in United
18 States prisons.

19 **SEC. 5. REPORT; WITHHOLDING OF ASSISTANCE.**

20 (a) **REPORTS.**—Not later than 180 days after the
21 date of enactment of this Act, and not later than March
22 30 each year thereafter, the President shall submit a re-
23 port to Congress on the progress of negotiations under-
24 taken under section 4 since the date of enactment of this

1 Act or the date of submission of the last report, as the
2 case may be.

3 (b) WITHHOLDING OF ASSISTANCE.—Whenever—

4 (1) a report submitted under subsection (a) in-
5 dicates that no progress has been made in negotia-
6 tions under section 4 with a foreign country, and

7 (2) the United States continues to maintain a
8 surplus of prisoners who are nationals of that coun-
9 try,

10 then, for the remainder of the fiscal year, and each fiscal
11 year thereafter until progress is reported under subsection
12 (a), not less than one percent or more than 10 percent
13 of United States assistance allocated for that country (but
14 for this provision) shall be withheld from obligation and
15 expenditure for that country.

16 (c) DEFINITION.—As used in this section, the term
17 “United States assistance” includes—

18 (1) assistance under the Foreign Assistance Act
19 of 1961; and

20 (2) sales and sales financing under the Arms
21 Export Control Act.

22 **SEC. 6. WAIVER AUTHORITY.**

23 The President may waive the application of section
24 5(b) if such an application would jeopardize relationships
25 between the United States and a foreign country that the

1 President determines to be in the national interest. When-
2 ever the President exercises the waiver authority of this
3 section, the President shall submit a statement in writing
4 to Congress setting forth the justification for the exercise
5 of the waiver.

6 **SEC. 7. DIPLOMATIC EFFORTS.**

7 For each country that does not receive United States
8 assistance and for which the conditions of sections 5(b)(1)
9 and 5(b)(2) apply, the President should use such diplo-
10 matic offices and powers as may be necessary to make
11 progress in negotiating or renegotiating a prisoner trans-
12 fer treaty.

13 **SEC. 8. RULE OF CONSTRUCTION.**

14 Nothing in this Act may be construed to alter or af-
15 fect the existing immigration, refugee, political asylum
16 laws of the United States nor any Federal, State, or local
17 criminal laws.

○